

ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD SEPTEMBER 26, 2001
PHOENIX, AZ

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on September 26, 2001, at AZ POST, 2643 E. University Drive, Phoenix, AZ.

Members Present:

Chairman Jack Rose
Chief Harold Hurtt
Chief John Corder
Mr. James Garcia
Director Dennis Garrett
Director Terry Stewart
Sergeant Gary Eisenga
Chief Jerry Sheridan
Sergeant Debbie Francis
Ms. Laura Reckart, representing Attorney General Janet Napolitano

Members Absent:

Attorney General Janet Napolitano
Mrs. Jan Cross
Sheriff Clarence Dupnik
Sheriff Joe Richards

Staff in Attendance:

Tom Hammarstrom
Lyle Mann
Ed Routh
Lynn Larson
Marie Dryer
Julie Love
Colin Peabody
Ted Brandon
Steve Jacobs
Gary Maschner
Carol Muskus
Lois Sherlock

Counsel for Board in Attendance:

Diana Stabler, Asst. A.G.

Guests in Attendance:

Michael Kieffer	Graham County Sheriff's Office
Kristie Kieffer	
David W. Boyd	Graham County Sheriff's Office
Mark Roberts	ASU East Campus Police
Miguel A. Loya	
Luis Martinez	Gila River Police Department
John Kaufmann	Attorney
Ed Cibbarelli	CAC
Terry Hollis	Somerton Police Department
John Miranda	San Luis Police Department
Tulley Jim, Sr.	Dine College Police Department
John Heiden	AZ Police Corps
Chuck Erickson	CAP
Rod Covey	AZ DPS
Tony Pablo	Gila River Police Department
Greg Barnargas	Gila River Police Department

A. CALL TO ORDER

Chairman Jack Rose called the meeting to order at 1:40 p.m. Chairman Rose invited everyone to stand for a moment of silence to reflect on the tragic events that occurred on September 11, 2001.

Requests were made to the Board to deviate from the planned agenda to accommodate travel arrangements for some individuals.

Chairman Rose invited Tom Hammarstrom to speak before the Board on how the events that occurred on September 11th will affect POST's mission.

Tom informed the Board the staff has been planning and thinking about how the job of the Arizona peace officer is going to change, and how that impacts the services that POST provides. Tom assured the Board that staff intends to take a leadership role in this effort because POST does anticipate change and recognizes areas where staff can provide input, contribution and value. Mr. Ed Routh is gathering information on training that POST can provide in the short-term in the form of telecourse training on terrorism. POST staff is also looking into the potential impacts upon POST's budget and the Criminal Justice Enhancement Fund (CJEF). Staff is identifying the services that may have to be altered.

Director Garrett invited POST to communicate with the Center that DPS has formed to include local, county and state law enforcement.

B. CALL TO THE PUBLIC

Ms. Kay Wentworth requested to speak before the Board on the subject of POST's employment requirements. Ms. Wentworth was concerned with POST's rule R-13-4-105(B)(1) on not granting certification if an individual smoked marijuana more than five times since the age of 21 years. Ms. Wentworth informed the Board that her 25-year old son wanted to become a peace officer, but could not do so in the state of Arizona because he smoked marijuana six times when he was 21 years of age.

Dr. Rose requested that Ms. Wentworth put her concerns in a letter and send it to Tom Hammarstrom and ask that it be referred to the Rule Revision Advisory Group for consideration.

Ms. Wentworth asked the Board about the waiver process to petition the Board to consider drug use to be experimental. Ms. Diana Stabler explained to Ms. Wentworth that more than five uses of marijuana since the age of 21 is not a prohibition to peace officer certification in Arizona. It is presumed that if the number is less than that it was experimental; there is no presumption above that. If an agency wishes to hire an individual then the Board can make the determination on whether the drug use was experimental. Whatever the Board's rule is, each agency is free to have stricter rules for themselves.

Because of time constraints and travel considerations, Case #5 was taken out of order of the agenda.

Case #5 - Miguel A. Loya - South Tucson Department of Public Safety - The Board considered comments from Mr. Miguel Loya; Mr. John Kaufmann, attorney for Mr. Loya; and Ms. Diana Stabler. The Board also considered the Stipulation of Facts and Consent Agreement, whether the conduct violates R13-4-109(A)(6)(7) and (8), and the appropriate sanction. Director Garrett made a motion to adopt the Stipulation of Facts and Consent Agreement, seconded by Chief Corder, motion carried unanimously. Chief Sheridan made a motion that the conduct does violate R13-4-109(A)(6)(7) and (8), seconded by Sgt. Eisenga, motion carried unanimously. Chief Sheridan made a motion to revoke certification, seconded by Mr. Garcia, motion carried, with Sergeant Francis voting no.

C. CONSENT AGENDA

Approved unanimously, motion made by Director Stewart, seconded by Chief Sheridan, motion carried unanimously.

1. Minutes of the meeting held on July 11, 2001, were approved as written. Income and Expense Statement - July 2001 - approved as recorded.

Funds as of May 1, 2001	\$1,340,731.17
CJEF Revenue	476,081.65
Expenditures/Encumbrances	(316,882.25)
Balance for May 31, 2001	\$1,499,930.57

2. The next scheduled Executive Session in accordance with A.R.S. §38-431.03(A)(1), (A)(2), (A)(3) or (A)(4) is Wednesday, November 28, 2001, 1:00 p.m. at AZ POST, 2643 E. University, Phoenix, AZ.
3. The next scheduled Regular Meeting is Wednesday, November 28, 2001, 1:30 p.m. at AZ POST, 2643 E. University, Phoenix, AZ.

4. Ministerial Actions:

- a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Michael E. Allread	Avondale Police Department
John S. Corich	Maricopa Community College District
Gilbert A. Zaccaro	Quartzsite Marshal's Office

- b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.
- c. Training Program Approvals: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were approved as requested. LIST ATTACHED TO MINUTES.
- d. Decertification Case Status Report Updates: As of September 5, 2001, the Certifications and Standards Unit had 100 active decertification cases in various stages of the process. Twenty cases are ready for initial presentation, 37 cases require further investigation, six cases are pending service of or response to a Notice of Complaint or Decision, three cases are pending hearing, and 13 cases are ready for final action.
- e. Training IGA - The Safford Police Department and Eastern Arizona College are requesting assistance from AZ POST to help sponsor a "Tony Blauer Officer Survival" program to be conducted in October

2001. AZ POST has helped with several different types of programs

in the past, and it is felt this program is worthy of support. An IGA has been prepared between the Safford Police Department and AZ POST to provide financial assistance in the amount of \$2,000.

D. REGULAR AGENDA

1. POST Designate to the Arizona SIDS Advisory Council - Mr. Tom Hammarstrom reported that ARS 36-2291 requires the Board to appoint a representative to serve on the Sudden Infant Death Advisory Council administered by the Arizona Department of Health Services. Staff recommends that Phoenix Police Sergeant Randy Force be nominated for this position. Sergeant Force is recognized as an expert in the area of law enforcement response to SIDS incidents, serves as a POST subject matter expert in this area, and has been nominated by his agency for this position. Sergeant Francis made a motion that the Board appoint Sergeant Randy Force to the Sudden Infant Death Advisory Council, seconded by Sergeant Eisenga, motion carried unanimously.
2. Transfer of ALETA Title to ADC - Mr. Tom Hammarstrom reported that in July 1996 AZ POST moved the statewide basic training academy from its property at ALETA in Tucson to the current location, ALEA in Phoenix. Since that date, the Correctional Officer Training Academy (COTA) has been the sole occupant of the Tucson property. In 1997 the Board adopted a resolution supporting legislation to transfer title of the property from DPS for POST, to ADC. The initial resolution was contingent on gaining a 3 percent increase in the POST share of CJEF. This proposed legislation failed, and the issue of title to the ALETA/COTA facility is unresolved. ADC requires title in order to plan and gain funding for needed capital improvements at the site.

ADC and DPS have met with POST staff to discuss the transfer of title. The parties agree that given appropriate assurances, a transfer is in the best interest of Arizona law enforcement. Title transfer will require legislation, and with POST support in the form of a resolution, DPS and ADC have agreed to cooperate in seeking such legislation. Chief Hurtt made a motion to adopt POST Resolution 01-001 approving the statutory transfer of the property and facility formerly known as ALETA at 5601 W. Trails End Road, Tucson, Arizona, seconded by Chief Corder, motion carried. *Director Garrett and Director Stewart abstained from voting.*

3. Petition by White Mountain Apache Recreation and Wildlife Department to Exempt Wilbert Naranjo from the POPAT Requirement - Lynn Larson reported that Chief Ranger Jefferson Cheney, Sr., of the Law Enforcement Wildlife and Outdoor Recreation Division of the White Mountain Apache Tribe requested that the POST Board exempt Officer Wilbert Naranjo from the POPAT requirements of the waiver process. Chief Ranger Cheney accepts the fact that a waiver of this requirement would restrict Officer Naranjo to an administrative certification only. Chief Sheridan asked why Officer Naranjo could not fulfill his administrative duties as a civilian. Mr. Larson stated it was his understanding it is a departmental requirement that the position be filled by a certified officer. Director Garrett made a motion to exempt Officer Wilbert Naranjo from the POPAT requirements of the waiver process and grant him full authority peace officer certification, restricted to the performance of administrative duties with the White Mountain Apache Tribe for the current period of employment only, seconded by Chief Corder, motion carried, with one opposing vote.
4. Request to Certify Retired Tucson Police Department Officer Carl R. Davison III Without Medical Examination - Mr. Lyle Mann stated that the Tucson Police Department is requesting certification for Carl R. Davison III, who was previously medically retired, to perform background investigations. He will not perform any enforcement activities, only administrative duties as a reserve officer. He retired October 27, 1999, and is over the 30-day limit allowed to reinstate him without going through the entire background certification process required by R13-4-104(B). The Tucson Police Department is willing to make accommodations for Officer Davison's medical inability to perform enforcement functions. Chief Sheridan made a motion to grant the request for certification under R13-4-107(J), restricted to administrative duties only during assigned working hours and only while employed with the Tucson Police Department, seconded by Sergeant Francis, motion carried unanimously.
5. Budget Reallocation - Mr. Ed Routh reported that in the current year's budget document, the Board approved any remaining balance from the 2000/2001 Distance Learning budget to be carried forward to the 2001/2002 budget. This carry-forward amounted to \$103,444. The Distance Learning Section is using \$53,000 of this carry-forward amount to upgrade the AVID editing system. They are currently using version 7.0, while the most recent version is 10.0. Staff has learned that AVID is reducing support for any versions beyond 8.0, so it is possible that while AVID will continue to support our version, there are features that may not be totally supported. The Finance Advisory Group has reviewed and approved this expenditure as part of the carry-forward approval for this budget year.

6. Request Approval to Submit Proposed Rulemaking Package to the Secretary of State - Lyle Mann reported that after meeting with the Governor's Regulatory Review Council (GRRC) concerning POST's proposed rulemaking package, the rulemaking package is not ready for the Board's review. GRRC has issues with POST's authority with regard to certification of instructors and academies. Lyle stated that staff is moving forward, but it is not going as quickly or as easily as staff had hoped. Director Garrett made a motion to table this item until the staff feels they are in a position to present it to the Board again, seconded by Chief Hurtt, motion carried unanimously.
7. Attorney's Duty of Confidentiality - Ms. Diana Stabler reported that Ethical Rule 1.6 prohibits a lawyer from revealing information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation. Ms. Stabler believes that the Board has implied a great deal of consent to her discussions by the many duties she has performed for the Board that do not narrowly constitute representation, such as training. Ms. Stabler asked the Board to expressly consent to her revealing POST information that is neither privileged, nor in her personal judgment, harmful to the public interest. Chief Sheridan made a motion that the Board consent to disclosure of all non-privileged information that the Board's counsel chooses to discuss in her independent judgment of public interest, except that she shall not testify about POST matters without specific consent or court order requiring her to testify, seconded by Chief Hurtt, motion carried unanimously.

E. REPORTS

1. AZ POST
 - a. Special Project - No report.
 - b. Legislative Update - No report.
 - c. AZ POST Comprehensive Certification Test, 2001 Annual Review - Dr. Thomas M. Haladyna - Mr. Lynn Larson stated that the pilot tests are moving forward as scheduled. The Basic Training Section has completed seven pilot tests, which equates into 21 separate blocks of instruction being tested. Two-hundred and ten cadets have been tested, and the average top score across the board was 89.60. According to Dr. Haladyna, the failure rate on an initial pilot process should be 80 percent pass/20 percent max failure rate. As of this time, we only have 17 percent failure rate.

2. ADVISORY GROUPS

No report.

3. SME COMMITTEE REPORTS

No report.

4. TRAINING

Mr. Ed Routh reported that In-Service Training, Long Distance Training and Basic Training have been consolidated into one Training Section. The Training Calendar for the second half of this year is being put together, but there will be a disclaimer printed on the calendar stating that classes and locations are subject to change in the event that money is not available.

Mr. Lyle Mann announced that he and Terry DeBoer will propose to the Chief's Association that they make an Internal Affairs presentation for the January meeting. The training tentatively scheduled for the March meeting at Sierra Vista will be The Early Warning System, and in April the AACOP/Sheriff's Association is hosting Dr. Jack Enter who will be speaking on Leadership in the 21st Century.

5. ACADEMIES

ALEA - Lynn Larson reported they have three classes in session: Class #357 has ten agencies represented with 38 cadets in the class; Class #358 has nine agencies represented with 41 cadets; Class #359 has 12 agencies represented with 43 cadets, and Class #360 begins Monday, October 1, representing 11 agencies with 48 cadets.

COTA - Lynn Larson reported that currently there are seven residential classes in session, totaling 173 cadets. A total of 714 corrections officers have graduated from 33 classes in 2001, and the facility is currently at 74 percent capacity, with 19 percent of the students commuting. Additionally, COTA provided support to outside agencies for DPS, U.S. Federal Probation, and SALETC.

Mesa Community Academy - Lynn Larson reported that Class #17 began on August 20, 2001, and they are currently in Week #5, with 29 recruits. The new addition to the Administration Building has recently been completed. The police department took possession on September 6, 2001. It provided 15 new work stations for training officer staff on-site. The remainder of the construction project is proceeding on schedule, and the new entrance area and expanded parking lot will be completed in early October. The auditorium

with break-out classes should be completed in February 2002.

SALETC - Tom McNalley reported that Class #01-3 graduated on September 21, 2001, with 31 recruits out of a starting class of 40, representing eight agencies. Currently #01-4 is in session; they began on September 3rd and are in their fourth week. They started with 57 recruits, and currently have 47 students in the class, representing nine agencies. Class #01-5 will begin October 22, and there are currently 24 reservations for that class, representing nine agencies. Commander McNally stated that it is probably the lowest number of reservations SALETC has had in over a two year period. Normally, SALETC is up into the 70's for reservations with approximately 55-60 actually starting in a class. Commander McNally reported SALETC had a ribbon-cutting ceremony on the Public Safety Academy Dormitories. He wanted to thank POST and the Board for their support in helping to make that improvement a reality. He also wanted to extend his thanks to Director Stewart and the Department of Corrections, and to Glen Parin, the Warden of the Arizona State Prison Complex in Tucson, Arizona, who provided assistance to SALETC in many ways. Most recently they are working with SALETC to establish meal service at the site, which will result in a tremendous amount of savings and provide nutritious meals to the residential recruits.

CARLOTA - Mr. Jon Heiden reported that Class #75 is in their sixth week; the class began on August 12th and will graduate November 9th, with 30 cadets representing 12 agencies. Class #76 is in their second week; the class began September 16th and will graduate December 19th, with 23 cadets representing 11 agencies.

POLICE CORPS - Mr. Jon Heiden, Director of Police Corps, reported that Police Corps is up and running, with an excellent staff on board. Twenty-five scholarships have been approved, and the first class will begin on June 16, 2002.

6. ARIZONA DEPARTMENT OF CORRECTIONS

Director Stewart stated that the potential activation of the Reserves and the National Guard is presenting problems for the Department of Corrections. The Department of Corrections has approximately 323 employees in those two services. That does not include those individuals who may have on-going military requirements because of commissions, etc. If they all were activated, it would take the two major institutions, the prison at Florence, and the second prison at Florence which is called EYMAN, to over 33 percent vacancy.

In response to that level of vacancy, Director Stewart hopes he will be able to announce later in the week that DOC will start a hiring bonus program. DOC will offer approximately \$2,650 if individuals are willing to go to work at Florence for two years. The hiring bonus will also be offered at Phoenix at a lower rate, because for the first time in the history of the Department of Corrections, they are having difficulty filling staff at Phoenix on the state hospital grounds and at Perryville.

Under the auspices of the Law Enforcement Coordinating Committee the jail and prisons sub-committee has been tasked with the development of some recommended detention officer standards for the state of Arizona. The Sheriff's Association has endorsed the continuing work by this committee. DOC hosted a facilitation session in which they have developed a set of recommended standards and some alternatives to certain standards that they eventually will present to the Sheriff's Association for consideration. The next step will be to make a presentation to the Sheriff's Association with regard to the standards, who should regulate those particular standards, and how they should be financed. As soon as DOC receives input from the counties from this original meeting, a meeting will be scheduled with the Sheriff's Association. It will be up to them whether or not they choose to move to the next step, which will be to adopt mandatory standards for detention officers.

7. ARIZONA REGIONAL COMMUNITY POLICING INSTITUTE (AZRCPI)

Commander Kim Humphrey reported that the AZRCPI continues to provide training around the state on a number of issues. Funding will carry them through this summer. In January they will begin offering courses in the areas of Ethics and Integrity. The first courses will be basic first-line supervision-type courses, and they hope to also offer these courses for upper management. In addition, they applied for an additional \$250,000 to provide Domestic Violence training to the Native American population.

Mr. Ed Routh made an announcement that Commander John Jarrett from Show Low Police Department is retiring. Commander Jarrett has been the moderator for Long Distance Learning's telecourses for quite some time, and he has volunteered to continue working with POST in that capacity. Mr. Routh wanted to take this opportunity to thank Chief Corder for allowing Commander Jarrett to work with POST for so many years.

The Board adjourned at 3:08 p.m. for a break. The Board reconvened at 3:18 p.m.

- F. CASES: Consideration and possible action on the certified status of peace officers.

Case #1 - Antonio Adame - Somerton Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(6) and (8). Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and deny certification, seconded by Chief Hurtt, motion carried. *Director Stewart abstained from voting.*

Case #2 - Miroslava Bozicevic - Chandler Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(4)(6) and (8). Sergeant Francis made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Ms. Reckart, motion carried unanimously.

Case #3 - Dennis J. Carter - Colorado River Indian Tribal Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(6) and (8). Chief Hurtt made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Mr. Garcia, motion carried unanimously.

Case #4 - Michael D. Kieffer - Graham County Sheriff's Office - The Board considered comments from Michael D. Kieffer, Undersheriff David Boyd from the Graham County Sheriff's Office, and Ms. Diana Stabler. The Board also considered documentation regarding violations of R13-4-109(A)(6)(7) and (8). Sergeant Francis made a motion to adopt the Findings of Facts and Conclusions of Law, seconded by Chief Sheridan, motion carried unanimously. Sergeant Francis made a motion to suspend certification for one year, seconded by Chief Corder. After discussion by the Board, Sergeant Francis amended her motion. Sergeant Francis made a motion to suspend certification for a period of two years, starting from July 26, 2000 to July 26, 2002, seconded by Chief Corder. After further discussion by the Board, Sergeant Francis amended her motion again. Sergeant Francis made a motion to suspend certification starting from July 26, 2001 to July 26, 2002. The suspension is contingent on successful passing of a polygraph subject to the questions raised by the Board, otherwise it comes back to the Board for further review, seconded by Chief Corder. After hearing comments from Ms. Stabler and various Board members, Sergeant Francis withdrew her motions, and the second was also withdrawn. Ms. Reckart made a motion to table this case for a later date for Board review after Mr. Kieffer has taken a polygraph examination regarding specific issues the Board has set forth, seconded by Director Stewart, motion carried unanimously.

Case #6 - Rona D. Pride - Maricopa County Sheriff's Office - The Board considered the documentation regarding violations of R13-4-109(A)(6) and (8). Chief Hurtt made a motion to adopt the Findings of Facts and Conclusions of Law and revoke certification, seconded by Sergeant Francis, motion carried. *Chief Sheridan recused himself from voting.*

Case #7 - Andrew D. Priesner - Lake Havasu City Police Department - The Board considered the documentation regarding the recommended decision of the Administrative Law Judge based on the violations of R13-4-109(A)(6)(7) and (8). Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Chief Corder, motion carried unanimously.

Case #8 - Daniel D. Smith - Salt River Pima-Maricopa Tribal Police - The Board considered the documentation regarding violations of R13-4-109(A)(6) and (8). Chief Hurtt made a motion to adopt the Findings of Fact and Conclusions of Law and deny certification, seconded by Director Stewart, motion carried unanimously.

Case #9 - James T. Strickler - Pima County Sheriff's Department - The Board considered the documentation regarding violations of R13-4-109(A)(6) and (8). Mr. Garcia made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Ms. Reckart, motion carried unanimously.

Case #10 - Avelino G. Tamala - Formerly with Maricopa County Sheriff's Office - The Board considered the documentation regarding violations of R13-4-109(D). Chief Hurtt made a motion for mandatory revocation of certification, seconded by Director Stewart, motion carried. *Chief Sheridan abstained from voting.*

Case #11 - Shane L. Tucker - Fort Mojave Tribal Police Department - (*Ms. Stabler moved to amend the numbering of the Conclusions of Law to read (6) and (8) instead of (7) and (8)*). The Board considered the documentation regarding violations of R13-4-109(A)(6) and (8). Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law with the notation under R13-4-109 that the numbers will be amended to read (6) instead of (7), seconded by Sergeant Francis, motion carried unanimously. Chief Sheridan made a motion to revoke certification, seconded by Chief Hurtt, motion carried unanimously.

Case #12 - Danny W. Walker - Yavapai-Apache Nation Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(1)(6)(7) and (8). Chief Hurtt made a motion to adopt the Findings of Facts and Conclusions of Law and revoke certification, seconded by Chief Corder, motion carried unanimously.

Case #13 - Christopher J. Wurster - Phoenix Police Department - The Board considered the Consent Agreement, Order and Decision. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision, seconded by Director Stewart, motion carried. *Chief Hurtt recused himself from voting.*

G. ADJOURN

Chairman Rose adjourned the meeting at 4:40 p.m.

Dated - October 4, 2001

Lois Sherlock, Recording Secretary

MINUTES APPROVED:

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